



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R06-OAR-2008-0637; FRL-9622-5]

#### **Approval and Promulgation of Air Quality Implementation Plans; Oklahoma; Infrastructure Requirements for 1997 8-Hour Ozone and the 1997 and 2006 PM<sub>2.5</sub> NAAQS**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving submittals from the State of Oklahoma pursuant to the Clean Air Act (CAA or the Act) that address the infrastructure elements specified in the CAA, necessary to implement, maintain, and enforce the 1997 8-hour ozone and the 1997 and 2006 fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standards (NAAQS or standards). This action is being taken under the CAA.

**DATES:** This final rule is effective on **[Insert date 30 days from date of publication in the Federal Register]**.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R06-OAR-2008-0637. All documents in the docket are listed at [www.regulations.gov](http://www.regulations.gov). Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

The file will be made available by appointment for public inspection in the Region 6 Freedom of Information Act (FOIA) Review Room between the hours of 8:30am and 4:30pm weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214-665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The state submittal is also available for public inspection during official business hours, by appointment, at the Oklahoma Department of Environmental Quality, 707 North Robinson, P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

**FOR FURTHER INFORMATION CONTACT:** Terry Johnson, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-2154; fax number (214) 665-7263; e-mail address: johnson.terry@epa.gov.

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

I. Background

II. Final Action

III. Statutory and Executive Order Reviews

## **I. Background**

The background for today's action is discussed in detail in our November 16, 2011, proposal (76 FR 70940). In that notice, we proposed to approve submittals from the State of Oklahoma, pursuant to the CAA, that address the infrastructure elements specified in the CAA section 110(a)(2), necessary to implement, maintain, and enforce the 1997 8-hour ozone, the 1997 fine particulate matter (PM<sub>2.5</sub>), and 2006 PM<sub>2.5</sub> NAAQS. Those submittals are dated December 5, 2007, June 24, 2010, and April 5, 2011, respectively. We noted that those submittals did not include revisions to the SIP, but documented how the current Oklahoma SIP already included the required infrastructure elements. Therefore, we proposed to find that the following section 110(a)(2) elements were contained in the current Oklahoma SIP and provided the infrastructure for implementing the 1997 8-hour ozone and the 1997 and 2006 PM<sub>2.5</sub> standards: CAA sections 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). In addition, we proposed to find that the current Oklahoma SIP satisfies the section 110(a)(2)(D)(i)(II) infrastructure element pertaining to emissions from sources in Oklahoma not interfering with measures required in the SIP of any other state under part C of the Act to prevent significant deterioration of air quality, with regard to the 2006 PM<sub>2.5</sub> NAAQS.

Our November 16, 2011, proposal provides a detailed description of the submittals and the rationale for EPA's proposed actions, together with a discussion of the opportunity to comment. The public comment period for these actions closed on December 16, 2011, and we did not receive any comments.

## II. Final Action

We are approving the December 5, 2007, and June 24, 2010, submittals provided by the State of Oklahoma as they demonstrate that the Oklahoma SIP meets the requirements of section 110(a)(1) and (2) of the Act for the 1997 ozone and 1997 PM<sub>2.5</sub> NAAQS as set forth in the CAA sections 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). Likewise, we are approving the April 5, 2011, submittal provided by the State of Oklahoma as it demonstrates that the Oklahoma SIP meets the requirements of section 110(a)(1) and (2) of the Act for the 2006 PM<sub>2.5</sub> NAAQS as set forth in the CAA sections 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). This action is being taken under authority of section 110 of the CAA.

## III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days from date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purpose of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52:**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 13, 2012.

**Al Armendariz,**

*Regional Administrator, Region 6.*

40 CFR part 52 is amended as follows:

**PART 52 - [AMENDED]**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart LL – Oklahoma**

2. The first table in § 52.1920(e) entitled “EPA-Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Oklahoma SIP” is amended by adding entries for “Infrastructure for the 1997 Ozone and 1997 and 2006 PM<sub>2.5</sub> NAAQS” and “Interstate transport for the 2006 PM<sub>2.5</sub> NAAQS” at the end to read as follows:

**§ 52.1920 Identification of plan**

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(e) \* \* \*

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE  
OKLAHOMA SIP

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
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Infrastructure for the 1997 Ozone and the 1997 and 2006 PM <sub>2.5</sub> NAAQS.	Statewide	12/5/2007 6/24/2010 4/5/2011	<b>[Insert date of FR publication] [Insert FR page number where document begins]</b>	Approval for 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).



Interstate transport for the 2006 PM <sub>2.5</sub> NAAQS (Noninterference with measures required to prevent significant deterioration of air quality in any other State).	Statewide	4/5/2011	<b>[Insert date of FR publication]</b> <b>[Insert FR page number where document begins]</b>	Approval for 110(a)(2)(D)(i)(II)
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[FR Doc. 2012-1534 Filed 01/25/2012 at 8:45 am; Publication Date: 01/26/2012]